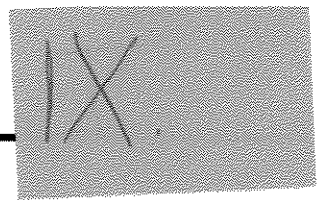


## Roland Bartl

**From:** Roland Bartl  
**Sent:** Friday, April 22, 2005 2:29 PM  
**To:** Stephen Anderson  
**Cc:** Garry Rhodes; 'Daniel C. Hill'; Don Johnson; John Murray  
**Subject:** RE: Acton/40BLaurel Hill: ZBA Hearing Follow-Up



Steve:

In another recent 40B occasion, the Planning Board did not react very favorably to the Board of Appeals' attempts to ask the Planning Board for a resolution of issues raised in its comment memo. Instead, Board members felt the Board of Appeals should take the comments for what they are, incorporate them or use them as they see fit, or ignore them, and arrive at a decision that makes the most sense to the Board of Appeals from their vantage point. In Planning Board's view, the Board of Appeals is the permit granting authority who must weigh the application, 40B, and comments, and then decide; the Planning Board's role is not to further negotiate its comments; and new comments would only be warranted upon substantial plan revisions or significant new information. With that as heads up, I am giving this to the Planning Board as you had requested. They meet on April 26.

Roland Bartl, AICP  
Town Planner, Town of Acton  
472 Main Street  
Acton, MA 01720  
978-264-9636

-----Original Message-----

**From:** Stephen Anderson  
**Sent:** Wednesday, April 20, 2005 1:24 PM  
**To:** Roland Bartl  
**Cc:** Garry Rhodes; Daniel C. Hill; Don Johnson; John Murray  
**Subject:** RE: Acton/40BLaurel Hill: ZBA Hearing Follow-Up

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Roland:

We have not been able to meet yet to discuss the current status of the Planning Board's recommendations to the ZBA regarding this project. It appears that some of the Planning Board's comments have been or can be resolved, and others will require the ZBA to make a decision. I have summarized my thoughts on these in the attached memo.

I would like to circulate this to the ZBA and the developer if you and the Board concur. Will the Planning Board have a meeting before the ZBA meets on 4/27 when it can review this memo? If not, when will it next meet?

Steve

> -----Original Message-----

> **From:** Stephen D. Anderson  
> **Sent:** Friday, April 01, 2005 3:39 PM  
> **To:** Roland Bartl (E-mail)  
> **Cc:** Garry Rhodes (E-mail); Daniel C. Hill; Don P. Johnson (E-mail); John Murray III (E-mail)  
> **Subject:** Acton/40BLaurel Hill: ZBA Hearing Follow-Up  
>  
> << File: Executed Memorandum of Agreement\_3-11-05.pdf >>  
>  
> Dear Roland:

>  
> The Board of Appeals next meets on April 27 regarding the Laurel  
> Hills 40B matter.  
>  
> I have attached a copy of the Memorandum of Agreement between the  
> Board of Selectmen and the Developer of the proposed project. The  
> Agreement establishes agreed mitigation payments by the developer to  
> the Town, which are derived from the 64 unit > "> for sale> ">  
> project on lot 4 and which cover mitigation for both that portion of  
> the project and the 296 unit rental project in Acton.  
>  
> In light of the MOA, the Board of Appeals has specifically asked  
> whether the Planning Board remains interested in a reduction in the density of the  
> project or not.  
>  
> In addition, the Board of Appeals specifically seeks the advice of  
> the Planning Board with respect to the proposed signage for the development.  
>  
> I am coming to Acton on 4/8/05 at 9 am to discuss thie project. Can  
> we meet that morning to review the Planning Board's comments and  
> appropriate ways to resolve them?  
>  
>  
>  
> \_\_\_\_\_  
> Stephen D. Anderson  
> ANDERSON & KREIGER LLP  
> 43 Thorndike Street  
> Cambridge MA 02141-1764  
> Phone: 617-252-6575  
> Fax: 617-252-6899  
> e-mail: sanderson@andersonkreiger.com  
> www.andersonkreiger.com  
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>  
>

## MEMORANDUM

TO: Acton Board of Appeals

FROM: Stephen D. Anderson

DATE: April 22, 2005

RE: Acton/40B Laurel Hill: Anticipated Resolution of Planning Board Comments

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At a meeting among representatives of the Developer and the Town Planner and Town Counsel on April \_\_\_, 2005, the parties agreed that the Planning Board's comments in its various memoranda to the Board of Appeals regarding this project either (a) have been or likely can be addressed as follows (subject of course to the final recommendation of the Planning Board with respect hereto), or (b) will require resolution by the Board of Appeals in its comprehensive permit decision.

### I. March 22, 2005 Planning Board Memorandum

Comment No.	Subject	Resolution
1	Compliance with Master Plan and Density Issue	The ZBA will need to resolve this issue in its decision.
2	Lot 4 to be preserved as open space	<ul style="list-style-type: none"><li>• Lot 4 is now proposed for development.</li><li>• The ZBA will need to resolve this issue in its decision.</li></ul>
3	Emergency response times	As requested, the proponent has agreed to make a significant financial contribution toward a new fire station serving North Acton.

### II. October 28, 2004 Planning Board Memorandum

Comment No.	Subject	Resolution
1	Compliance with Master Plan, Overlay District, and Density Issue	The ZBA will need to resolve this issue in its decision.

2	Rail Transit parking/traffic	The provision of a shuttle bus to the train is being evaluated as part of the MEPA process.
3	Fire Safety	<ul style="list-style-type: none"> <li>• The buildings will be sprinklered.</li> <li>• The proponent has agreed to make a significant financial contribution toward a new fire station serving North Acton.</li> </ul>
4	Emergency response times	The proponent has agreed to make a significant financial contribution toward a new fire station serving North Acton.
5	Westford services; and Acton Subdivision Rules prohibiting street access to lots in another Town	<ul style="list-style-type: none"> <li>• The Selectmen are pursuing the possibility of an inter-municipal agreement with Westford to address these concerns.</li> <li>• In the absence of such an agreement, conditions will be proposed for the Comprehensive Permit to make clear that Westford is responsible for providing all public services to the Westford portion of the project.</li> <li>• A waiver will be necessary from the Acton Subdivision Rule prohibiting street access to lots in another town unless there is a connection to the street network in the other town.</li> </ul>
6	Affordable housing count	Conditions will be proposed for the Comprehensive Permit restricting the affordable rental units in perpetuity and prohibiting conversion to condominiums which would decrease the affordable unit count.
7	Affordability	A condition will be proposed to restrict affordable units in perpetuity.
8	Location of affordable units	Distribution of affordable units throughout the project will be addressed by conditions in the Comprehensive Permit.
9	Production schedule	A condition will be proposed for the Comprehensive Permit to address how the affordable units will be phased as compared to the market rate units.
10	Pricing of affordable units	Conditions will be proposed to provide flexibility in the range of affordable rental prices.
11	Ground floor units adaptable for persons with disabilities	Ground floor units will be adaptable for persons with disabilities.
12	Access easement to old railroad right-of-way	The developer will be asked to provide a perpetual access easement described in this bullet.

13	Access to Nagog Office Park	<ul style="list-style-type: none"> <li>• A suitable emergency access will be provided between Nagog Park Drive and Nonset Path in the location described.</li> <li>• At the request of Nonset Path residents, a condition will be proposed that this access be gated and locked, with access for fire, police and emergency vehicles only.</li> </ul>
14	Westford Lane/Durkee Lane	The revised plans will specify the improvements proposed for Westford Lane and Durkee Lane..
15	Subdivision Plan	The issue of endorsement of the plan will be addressed in consultation among the Town Planner, Town Counsel, and the applicant's counsel.
16	Definitive Plan	Detailed engineering plans will be provided for review by Town Boards prior to the close of the ZBA's Public Hearing.
17	Final Plans	Final Plans suitable for construction and that incorporate all modifications required by the ZBA will be prepared and submitted for endorsement before the issuance of any building permits.
18	Designer Certificate	A Designer's Certificate will be submitted prior to record plan endorsement and the issuance of building permits.
19	Private Way	A condition will be proposed requiring the applicant to submit a recordable private way covenant and maintenance agreement as described in bullet 19.
20	As-Built plan	A condition will be proposed requiring the applicant to submit an as-built plan for all roads and related utilities and infrastructure upon project completion.
21	Record Plan and building permits	A condition will be proposed requiring a satisfactory performance guaranty.
22	Town access to the site	A condition will be proposed requiring the applicant to allow the Town access as described in bullet 22.
23	Grades and width of Laurel Hill Drive	The final engineering plans will address the grades and width of Laurel Hill Drive and Dogwood Lane. The engineering department will comment upon receipt of those plans.
24	Laurel Hill Drive sidewalk	The revised plans will show the sidewalk.
25	Lot 4	The plans have been revised to show the development of Lot 4 and associated access.

26	Traffic Impact and Access Study	<ul style="list-style-type: none"> <li>• A revised traffic study has been submitted and is under review by the Town's peer review traffic consultant.</li> <li>• Mitigation measures are being discussed among the applicant, the Town, neighbors, and their respective traffic consultants.</li> </ul>
27	School-age children	The ZBA will need to consider this issue in its decision-making process.
28	Signage	<ul style="list-style-type: none"> <li>• The applicant will submit a signage plan to the Planning Board..</li> <li>• The Planning Board will provide recommendations to the ZBA with respect to the proposed signage for the development.</li> </ul>
29	Outdoor lighting	The applicant will install outdoor lighting in compliance with the Acton Zoning Bylaw.
30	Waiver request from the parking requirements	The proposed waiver appears appropriate.

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